

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7640

Petition of IVEK Corporation for a Certificate of Public)
Good, pursuant to 30 V.S.A. § 248(j), for authority to)
build a solar generation facility at North Springfield)
Industrial Park, Springfield, VT)

Order entered: 9/3/2010

I. INTRODUCTION

This case involves a petition filed by IVEK Corporation ("IVEK") on July 2, 2010, requesting a Certificate of Public Good ("CPG") pursuant to 30 V.S.A. § 248(j) and Vermont Public Service Board ("Board") Rule 5.100 to authorize IVEK to build a 199.18 kW net-metered solar generation facility in the North Springfield Industrial Park in Springfield, Vermont. In today's Order, we conclude that the proposed project will be of limited size and scope, the petition does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, the public interest is satisfied by the procedures authorized by 30 V.S.A. § 248(j) and Board Rule 5.100, and the proposed project will promote the general good of the state.

II. PROCEDURAL HISTORY

On April 6, 2010, IVEK submitted a completed Application for a Certificate of Public Good for Interconnected Net Metered Power Systems ("Application") pursuant to 30 V.S.A. §§ 219a and 248 and Board Rule 5.100. The Clerk of the Board notified IVEK that, due to the capacity of the proposed project and pursuant to Board Rule 5.109, the petition needed to be filed in accordance with the requirements of 30 V.S.A. § 248, and that it may file pursuant to 30 V.S.A. § 248(j).

On July 2, 2010, IVEK filed a petition pursuant to 30 V.S.A. § 248(j) for the construction and operation of a 199.18 kW net-metered solar electric generating facility in the North

Springfield Industrial Park in Springfield, Vermont. IVEK submitted prefiled testimony, proposed findings, and a proposed order pursuant to the requirements of 30 V.S.A. § 248(j).

On July 8, 2010, the Clerk of the Board issued a letter¹ to IVEK indicating that additional information was required to determine that the petition was complete and that it could be processed pursuant to 30 V.S.A. § 248(j).

On July 15, 2010, IVEK filed the required information.

Notice of the petition was sent on July 23, 2010, to all entities specified in 30 V.S.A. § 248(a)(4)(c), adjoining landowners, and other interested parties. A similar notice was posted on the Board's website. Each notice stated that any party wishing to submit comments as to whether the petition raises a significant issue with respect to the substantive criteria of 30 V.S.A. § 248 needed to file comments with the Board on or before August 20, 2010.

On July 23, 2010, the Clerk of the Board issued a memorandum requiring IVEK to file additional information.

On August 10, 2010, IVEK filed the required information.

On August 19, 2010, Central Vermont Public Service Corporation ("CVPS") filed comments on the proposed project with the Board.² The CVPS comments indicate the size and number of transformers that will be required for the proposed project, and that, pursuant to 30 V.S.A. § 219a(h)(1)(E), IVEK will be responsible for all incremental costs associated with interconnection.

On August 24, 2010, the Department filed comments on the proposed project with the Board.³ The Department concluded that the petition does not raise any significant issues with respect to the substantive criteria of 30 V.S.A. § 248. With its comments the Department filed a determination pursuant to 30 V.S.A. § 202(f).

No other comments were received.

1. Letter from Susan M. Hudson, Clerk of the Board, to Michael F. Hanley, Esq., dated July 8, 2010.

2. Letter from Morris L. Silver, Esq., to Susan M. Hudson, Clerk of the Board, dated August 19, 2010.

3. Letter from Sarah Hofmann, Esq., to Susan M. Hudson, Clerk of the Board, dated August 24, 2010.

III. FINDINGS

1. IVEK is a company as defined by 30 V.S.A. § 201, with its principal place of business at 10 Fairbanks Road in the North Springfield Industrial Park in Springfield, Vermont. Petition at 1.

2. The proposed project is to be located on land adjacent to IVEK's principal place of business. This land will be leased from Marko Enterprises, LLC. Petition at 1.

3. Mark Tanny is the sole owner of both IVEK and Marko Enterprises, LLC. Petition at 1; Tanny pf. at 3.

4. The proposed solar electric generation facility will have a system-rated capacity of 199.18 kW and consists of 936 224-watt ground-mounted solar photovoltaic panels arranged in nine rows of 104 panels. The panels will be secured to aluminum posts that will be attached to concrete ballast on the ground surface. The panels will be fixed at an inclination of 35° from horizontal. The lowest point of the panels will be three feet off the ground, and the highest point will reach nine feet two inches off the ground. Tanny pf. at 3; exh. 12; Morton pf. at 5; exh. 10.

5. The panel wiring will be in conduit buried 18-24 inches below ground. The buried wiring will run between the rows of solar arrays and two 100 kW inverters. The inverters will be located in a shed that will be designed to look like a traditional Vermont sugarhouse. Tanny pf. at 4.

6. The proposed project will be a net-metered project pursuant to 30 V.S.A. § 219a and Board Rule 5.100. The proposed project will have two meters: one meter to measure the project's electricity generation and the other will be IVEK's existing meter that measures electricity use. CVPS will be the interconnecting utility. The proposed project will connect to the CVPS distribution system at an existing pole on Precision Drive. Tanny pf. at 4; Morton pf. at 5.

7. In order to interconnect the proposed project with the CVPS system, CVPS has determined that three 75 kVA transformers, one for each phase, will be required. Letter from Morris L. Silver, Esq., to Susan M. Hudson, Clerk of the Board, dated August 19, 2010, at 1.

8. IVEK will be responsible for all incremental interconnection costs. Letter from Michael F. Hanley, Esq., to Susan M. Hudson, Clerk of the Board, dated August 10, 2010, at 2.

9. The proposed project will be surrounded by a chain link fence. The project and fence will comply with the setback requirements of the Town of Springfield. Tanny pf. at 4.

Orderly Development of the Region

[30 V.S.A. § 248(b)(1)]

10. The proposed project will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipalities. This finding is supported by findings 11 and 12, below.

11. The proposed project is consistent with the land-use and energy sections of the Springfield Town Plan and the Southern Windsor County Regional Plan. Exh. 14 at 81, 63; exh. 15 at 27.

12. The Springfield Town Planning Commission, Selectboard of the Town of Springfield, and the Southern Windsor County Regional Planning Commission have all waived their right to 45-day notice prior to filing a petition for a CPG pursuant to 30 V.S.A. § 248(j). Letter from Michael F. Hanley, Esq., to Susan M. Hudson, Clerk of the Board, dated July 14, 2010, at 1 and attachments.

System Stability and Reliability

[30 V.S.A. § 248(b)(3)]

13. The proposed project will not adversely affect system stability and reliability. CVPS performed a Fast Track screen pursuant to Board Rule 5.500, and the proposed project passed all screens. CVPS determined that the project, as proposed, will not cause any reliability or stability issues. Morton pf. at 6; exh. 16.

**Aesthetics, Historic Sites, Air and Water Purity,
the Natural Environment and Public Health and Safety**

[30 V.S.A. § 248(b)(5)]

14. The proposed project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment and public health and safety. This finding is

supported by findings 15 through 26, below, which are the criteria specified in 10 V.S.A. §§ 6086(a)(1)(B), (1)(D), (1)(E), (1)(F), (1)(G), (4), (8) and (8)(a), pursuant to Board Rule 5.107.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

15. All construction debris will either be recycled or disposed of at a state-approved landfill. Biebel pf. at 2.

Floodways

[10 V.S.A. § 6086(a)(1)(D)]

16. The proposed project is not located in a floodway or floodway fringe. Tanny pf. at 7; exh. 9 (revised).

Streams

[10 V.S.A. § 6086(a)(1)(E)]

17. There are no streams on or adjacent to the proposed project site. Tanny pf. at 8, exh. 8 (revised).

Shorelines

[10 V.S.A. § 6086(a)(1)(F)]

18. The proposed project is not near any shorelines. Tanny pf. at 8, exh. 8 (revised).

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

19. The proposed project will not involve any activities within a wetland or wetland buffer. Tanny pf. at 8.

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

20. The proposed project will not cause soil erosion or reduce the capacity of the land to hold water. Site preparation will require minimal grading. The only other ground disturbance will be the burial of conduit 18 to 24 inches below ground. Tanny pf. at 10; Morton pf. at 4.

Discussion

According to Mr. Tanny's prefiled testimony, the proposed project, due to its nature and size, does not require a federal stormwater construction permit or a state stormwater discharge permit. Under the National Pollutant Discharge Elimination System and the Clean Water Act⁴, construction projects involving one or more acres of land disturbance require a permit for the discharge of stormwater from the construction activities. Because the solar array will cover an area of approximately 281.25 feet wide by 329.81 feet long, it appears as though the proposed project may require a Construction General Permit 3-9020. We condition the CPG on IVEK inquiring with the Agency of Natural Resources as to whether a Construction General Permit 3-9020 is necessary for the proposed project, and if necessary, obtaining a Construction General Permit 3-9020, and employing appropriate erosion prevention and sediment control measures as contained in the Low Risk Site Handbook for Erosion Prevention and Sediment Control.

**Aesthetics, Historic Sites
and Rare and Irreplaceable Natural Areas**
[10 V.S.A. § 6086(a)(8)]

21. The proposed project will not have an undue adverse impact on the scenic or natural beauty, aesthetics, historic sites, or rare and irreplaceable natural areas. This finding is supported by findings 22 through 24, below.

22. The proposed project will not have an adverse impact on the aesthetics or natural beauty of the area. The proposed project will be built in an industrial park on a parcel that currently contains nothing more than scrub brush. The proposed solar array will fit the context of the surrounding industrial park. Tanny pf. at 10-11; exh. 9 (revised).

23. The proposed project will not have an undue adverse effect on historic sites. There are no buildings with historical significance or land with archaeological significance within the North Springfield Industrial Park. Flint pf. at 2.

4. More information on construction stormwater permits can be found at the Vermont Department of Environmental Conservation Water Quality Division website:
http://www.anr.state.vt.us/dec//waterq/stormwater/htm/sw_cgp.htm

24. There are no rare or irreplaceable natural areas in the vicinity of the proposed project. Tanny pf. at 11.

Necessary Wildlife Habitat and Endangered Species

[10 V.S.A. § 6086(a)(8)(A)]

25. There is no necessary wildlife habitat or rare, threatened or endangered species on or near the proposed project area. Tanny supplemental pf. at 2-3; exhs. 17, 18.

Public Health and Safety

[30 V.S.A. § 248(b)(5)]

26. The proposed project will not adversely impact public health and safety. The array will be surrounded by a chain link fence, making it inaccessible to the public. Morton pf. at 4.

Outstanding Resource Waters

[30 V.S.A. § 248(b)(8)]

27. The proposed project is not located on or near any Outstanding Resource Waters as designated by the Water Resources Board. Tanny pf. at 5.

IV. CONCLUSION

Based upon all of the above evidence, we conclude that the proposed project will be of limited size and scope, the petition does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, the public interest is satisfied by the procedures authorized by 30 V.S.A. § 248(j), and the proposed project will promote the general good of the state.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The proposed installation and operation of a 199.18 kW net-metered solar generation facility by IVEK Corporation in the North Springfield Industrial Park in Springfield, Vermont, will promote the general good of the State of Vermont in accordance with 30 V.S.A. Section 248, and a certificate of public good to that effect shall be issued.

2. Construction, operation, and maintenance of the proposed project shall be in accordance with the plans and evidence as submitted in this proceeding. Any material deviation from these plans must be approved by the Board.

3. Prior to commencing construction, IVEK Corporation shall obtain all necessary permits and approvals. Construction, operation, and maintenance of the proposed project shall be in accordance with such permits and approvals, and with all other applicable regulations, including those of the Agency of Natural Resources.

Dated at Montpelier, Vermont, this 3rd day of September, 2010.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
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OFFICE OF THE CLERK

FILED: September 3, 2010

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.